John T. Scott, III
Vice President &
Deputy General Counsel
Regulatory Law

verizonwireless

Verizon Wireless
1300 I Street, N.W.
Suite 400 West
Washington, DC 20005

Phone 202 589-3760
Fax 202 589-3750
john.scott@verizonwireless.com

October 18, 2006

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation, CC Docket No. 96-115
Telecommunications Carriers' Use of Customer Proprietary
Network Information and other Customer Information

Dear Ms. Dortch:

On October 17, 2006, I met with Thomas Navin, Julie Veatch and Marcus Maher of the Wireline Competition Bureau, to discuss Verizon Wireless' views on the Commission's Notice of Proposed Rulemaking in this proceeding to consider additional rules regulating the disclosure of customer proprietary network information (CPNI).

In its initial comments and reply comments in this proceeding, Verizon Wireless noted its concerns with many of the potential rules discussed in the Notice of Proposed Rulemaking. The Company urged the Commission instead to focus on actions that would be effective in impeding pretexting and at the same time would not overly burden carriers and their customers. Our discussion yesterday was consistent with the Company's written comments.

I noted that if the Commission develops specific rules aimed at pretexting, they should reflect the following principles:

1. Carriers should have written procedures that are included with their annual certification, already required by the Commission's rules, summarizing the carriers' practices for protecting CPNI. Written procedures will help ensure that carriers and their employees are aware of and comply with specific safeguards for CPNI.

2. Carriers should require pass codes for on-line access to CPNI. Pass codes have become a commonly used safeguard for many on-line products and services and are accepted by customers. Requiring all carriers to prevent the disclosure of CPNI on-line unless a correct pass code is first provided will be an effective safeguard.

3. Carriers should make pass codes available to customers to place on their accounts and should inform customers that pass codes are available. However, customers should not be forced to have a pass code in order to obtain most information about their account when they call a carrier's customer service department. Based on Verizon Wireless' experience, many if not most customers would find having to establish and remember pass codes each time they call customer service to be a serious burden and inconvenience. Moreover, out of the literally millions of calls a month Verizon Wireless receives from its customers, most seek information about the balance due or minutes left on an account, in addition to questions about network coverage or handset upgrades. None of this information is related to the pretexting problem.

Forcing customers to set up and remember pass codes when they occasionally seek help from customer service, months or even years later, would be excessive. The significant costs and burdens of this requirement on customers and carriers would far outweigh any incremental benefit in protecting against pretexting. The record shows that carriers already use a variety of safeguards, without pass codes, for verifying customer identity, which are sufficiently reliable for most calls to customer service.

4. Carriers should prohibit customer service representatives from providing the telephone numbers included on call detail records over the phone. The goal of virtually all pretexting is to obtain either specific telephone numbers that a carrier's customer has called or telephone numbers that have called the customer. These call detail records are what pretexters are after, not the amount of a customer's bill or the number of minutes used, even though this information constitutes CPNI under the definition of that term in Section 222 of the Communications Act. Preventing a customer service representative from providing specific call detail records over the phone would be a focused and effective way to stop pretexting.

5. Carriers should notify customers if they determine that CPNI has been released to an unauthorized individual. Customers should be made aware that their CPNI has been released to someone else, subject to carriers' obligations to comply with requests from law enforcement or otherwise in response to legal process.

6. Compliance with all of these requirements should constitute a "safe harbor" against enforcement. In 2003, in adopting its "do not call" rules for telemarketing, the Commission decided that a carrier that followed all of the specific safeguards set forth in the rules for preventing unlawful telemarketing, but nonetheless erroneously called a person on the do-not-call list, should not be penalized for doing so. See 47 C.F.R. § 64.1200(c). This approach is even more appropriate where a carrier would not have willfully released CPNI to an unauthorized person. See 47 U.S.C. § 503(b). For example, an estranged spouse may well have access to all of the verification data needed to obtain CPNI, including a password. Where an outside party's fraud causes the release of CPNI despite the carrier's adherence to all required safeguards, it would be unfair and unreasonable to penalize the carrier.

There are a variety of ways in which these principles can be included in a new Commission policy or rule. At the meeting I provided the attached straw proposal that incorporates them, noting that there are other ways to incorporate them into an order in this proceeding. Verizon Wireless stands ready to work with the Commission on how best to implement the above principles.

Consistent with the Commission's ex parte rules, please associate this letter, which is being filed electronically, with the captioned docket. Please let me know if there are any questions related to this filing.

Sincerely,

John T. Scott, III

John T. Scott, III

cc: Thomas Navin
Julie Veatch
Marcus Maher

Section 64.2010: Protection of Customer Proprietary Network Information

(a) Carriers have a duty not to disclose a customer's CPNI to any third party, other than disclosures that are permitted at the request or with the consent of the customer or are otherwise authorized under this subpart.

(b) A carrier that discloses CPNI in violation of subsection (a) will not be liable for such violation, if it can demonstrate that as a part of its routine business practice it meets all of the standards and practices required by this section.

(c) *Written procedures.* A carrier shall adopt and implement written procedures to comply with this section to be followed by all employees, agents, and other persons who have access to CPNI. These written procedures shall be included with the certification required by Section 64.2009(e).

(d) *Pass codes.* A carrier shall require a pass code in order for customers to open an on-line account, and shall make a unique pass code available for customers to place on their billing account for calls to customer service. The carrier shall make its customers aware of the availability of pass codes through bill inserts, on its web site, at point of sale or other means. The carrier may not impose any fee or other charge for pass codes.

(e) *Notification of new or changed pass codes.* If a pass code is placed or changed on an account, the carrier shall within five business days send a notification by mail or electronic mail to the billing or electronic mail address that the carrier has for the customer, send a text message to the customer's handset, or call the telephone number designated on the account.

(f) *Verification prior to providing CPNI.*

(1) *On-line accounts.* A carrier shall not allow CPNI on a customer's account to be accessed on-line unless (i) the correct pass code is first provided, or (ii) the correct answer to a challenge question previously set up on the account is first provided.

(2) *Telephone calls to customer service.* (A) If a customer account has a pass code, a carrier shall not provide CPNI during a telephone conversation unless (i) the correct pass code is first provided, (ii) the correct answer to a challenge question previously set up on the account is first provided, or (iii) the carrier calls back and reaches the same individual at the authorized reach number on the account.

(B) If a billing account does not have a pass code, a carrier shall not provide CPNI during a telephone conversation unless correct answers to at least two of the following are first provided: challenge question previously set up on the account, account number, social security number, billing address, or amount of last bill.

(g) *No disclosure of call detail records during calls to customer service.* A carrier shall not disclose call detail records during a telephone conversation. "Call detail records" means records of the originating telephone number for an inbound call to, or the destination telephone number for an outbound call from, the telephone number on the account.

(h) *Notification.* If a carrier has reason to believe that an unauthorized person may have obtained CPNI, it shall promptly conduct an investigation. If the carrier determines that an unauthorized person has obtained CPNI, it shall promptly (and in any event no later than 14 days after its determination) notify the customer. The notification shall explain the CPNI that was disclosed. Notice may be delayed if a law enforcement agency determines that it would interfere with a criminal investigation and requests a delay.

(i) Nothing in this section shall affect a carrier's rights and obligations with regard to furnishing CPNI to a law enforcement agency, an administrative agency, or a court pursuant to legal process.